

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRA-S-1960-SB of 2017 (O&M)
DATE OF DECISION :- August 30, 2017**

Jaspreet Singh @ Jassa

...Appellant

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Kulwant Singh, Advocate for the appellant.

Mr. K.S. Aulakh, Deputy Advocate General, Punjab.

This is an appeal against the judgment dated 7.4.2017 passed by Judge, Special Court, Ludhiana vide which accused Jaspreet Singh @ Jassa was convicted for an offence under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹10,000/- in default of payment of fine to further undergo rigorous imprisonment for two months.

Briefly stated the prosecution story is that on 12.4.2013, a police party headed by ASI Kuldip Singh from Police Station Focal Point, Ludhiana had intercepted accused Jaspreet Singh @ Jassa in the area of Sherpur Khurd and carried out search of the bag which he was carrying, which resulted in recovery of 95 packets of Phinotil tablets each packet containing 100 tablets and 50 bottles of Rexcof 100 ml each. The samples were drawn as per rules. The sample parcels were duly sealed. Ruqa was

sent to Police Station. A formal FIR was registered. On return to the Police Station accused along with the case property was produced before officiating SHO ASI Narinder Singh, who verified the facts and perused the case property fixing seal on the parcels and the sample. Then the case property was deposited with the MHC. Accused was put up in lock up. On the next day i.e. 13.4.2012, the Investigating Officer produced the case property along with accused before Duty Magistrate moving an application on which the Duty Magistrate passed an order. Photographs were got clicked during the inventory proceedings. Investigating Officer deposited the case property with District Nazar, whereas two parcels along with sample seals were deposited with MHC of Police Station Focal Point, Ludhiana. During the course of investigation, report from Chemical Examiner (Ex. PL) was received giving the opinion in affirmative. After completion of investigation, accused was challaned.

On production of challan in the Court, copies of documents relied upon in the challan were supplied to the accused. Charge for offence under Section 21 of the NDPS Act, 1985, was framed against the accused to which he pleaded not guilty.

During the course of prosecution evidence, prosecution examined PW4 ASI Kuldip Singh, Investigating Officer, who reiterated the version of prosecution and proved on record various documents i.e. consent statement Ex.PA, sample seal chit Ex.P1, form no. 29 Ex. P2, recovery memo Ex. PB, ruqa Ex.PH, FIR Ex.PF, personal search memo Ex.PC, arrest memo Ex.PD, intimation memo Ex.PE, site plan Ex.PI, application for inventory Ex.PJ, order of Duty Magistrate Ex.PK, photographs Ex.P3 to

P10, report of Chemical Examiner Ex.PL. PW2 HC Gurkirpal Singh, a recovery witness, supported case of the prosecution. PW3 happened to be ASI Narinder Singh Officiating SHO, before whom, the case property was produced, PW1 HC Ravinder Singh, with whom, the case property was deposited, has filed his affidavit Ex.PW1/A. PW5 HC Lal Singh brought original register no.19 pertaining to the movement of case property of FIR No. 121 dated 12.4.2013 and proved copy of entry No.444 Ex.PW5/A and thereafter Ld. Addl.P.P. for the State closed the prosecution evidence.

When prosecution evidence was closed, statement of accused was recorded under Section 313 Cr.P.C. in which he pleaded innocence. He did not led any evidence in defence.

After arguments, learned trial Court convicted and sentenced the accused mentioned above and he has filed the present appeal.

I have heard learned counsel for the appellant-accused and learned State counsel besides going through the record.

At the very outset, learned counsel for the appellant stated that he does not challenge the conviction part of the judgment, however, as regards the sentence part, since the accused has already undergone 1 year 1 month and 2 days of actual sentence out of total sentence of 2 years awarded to him and further keeping in view the young age of accused-convict being 32 years, he being a married person having two children and so also sole breadwinner of the family with no criminal background, a lenient view as regards sentence part be taken and sentence be reduced.

A perusal of the custody certificate produced by the learned State counsel goes to show that accused is not reflected to be involved in

any other criminal case. He is shown to have undergone 8 months and 10 days of custody as an under trial 4 months and 22 days after conviction out of total sentence of 1 year 1 months and 2 days.

Keeping in view the facts and circumstances explained by the learned counsel for accused-appellant and the fact that there is nothing on record to go to show that the accused is a hard cored criminal involved in several other criminal cases, I am of the view that ends of justice would be met if he is sentenced to imprisonment already undergone by him while in custody in this case. Therefore, the appeal is allowed partly. The impugned judgment is upheld as far as the conviction part is concerned but as far as sentence part is concerned, the appellant is sentenced to imprisonment already undergone by him in this case besides paying fine of ₹10,000/-. However, as regards the fine, that part remains untouched and he is directed to pay a fine of ₹10,000/- in default of payment of fine to undergo further rigorous imprisonment for two months. Necessary intimation be sent to the quarters concerned.

(H.S. MADAAN)
JUDGE

August 30, 2017

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No